

HOFLAND & TOMSHECK

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PHILLIP ALLERSON VAUGHN

Defendant

Case No.: 2:15-cr-00078-JAD-NJK

STIPULATION AND ORDER TO
CONTINUE SENTENCING DATE,
(SEVENTH REQUEST)

IT IS HEREBY STIPULATED, by and between the UNITED STATES OF AMERICA, by and through Steven Myhre, United States Attorney, Dan Cowhig, Assistant United States Attorney, and Kathryn C. Newman, Assistant United States Attorney, and defendant, PHILLIP ALLERSON VAUGHN, by and through his attorney, Joshua Tomsheck, Esq., of the law firm of Hofland & Tomsheck, that the sentencing date in the above-captioned matter now scheduled for March 27, 2017 vacated and continued to a date and time convenient to the Court, no sooner than thirty (30) days beyond the current setting, in order for the Parties to have sufficient time to prepare for sentencing in this matter.

This is the SEVENTH request by the undersigned defense counsel for a continuance of the scheduled sentencing date, is made in good faith and not for the purpose of delay and comports with the good cause requirements of Fed. R. Crim.

P. 32(b)(2).

1. Counsel for the Defendant is appointed CJA counsel.
2. Counsel for the Defendant is concerned that legal issues arising out of the decision in USA v Johnson might prejudice the Defendant if the case proceeds to sentencing in its current posture.
3. Counsel for the Defendant is researching these matters and has engaged the Government Counsel regarding a potential resolution to protect the interests of the Defendant.
4. Counsel for the Defendant is set for a firm jury trial on March 27, 2017 in the Eighth Judicial District Court, Clark County, Department 12, in Case C-16-313395-1, State of Nevada v. Rafael Byrd, which is a burglary while in possession of a firearm, attempt robbery with use of a deadly weapon, attempt robbery where victim is an older person, and first degree kidnapping case. This matter is a joint trial with a Co-Defendant. This trial is expected to last two (2) weeks.
5. Denial of this request for continuance would deny the parties herein time and the opportunity to effectively and thoroughly prepare for the sentencing hearing, taking into account the exercise of due diligence.
6. Additionally, denial of this request for continuance could result in a miscarriage of justice.
7. For all of the above-stated reasons, the ends of justice would best be served by a continuance of the sentencing date.

STEVEN MYHRE
United States Attorney

HOFLAND & TOMSHECK

/S/ D. Cowhig
DAN COWHIG
Assistant United States Attorney

/S/ J. Tomsheck
JOSHUA TOMSHECK, ESQ
Counsel for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

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v

PHILLIP ALLERSON VAUGHN

Defendant

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FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

Based upon the pending Stipulation of the parties, and good cause appearing therefore, the Court finds that:

The parties have stipulated to continue the sentencing hearing date as presently scheduled.

This Court, being convinced that adequate showing has been made that were this request for continuance to be denied, counsel would not have the necessary time to effectively prepare for the sentencing hearing, taking into account the exercise of due diligence, and a miscarriage of justice could result, based on the following:

1. Counsel for the Defendant is appointed CJA counsel.
2. Counsel for the Defendant is concerned that legal issues arising out of the decision in USA v Johnson might prejudice the Defendant if the case proceeds to sentencing in its current posture.
3. Counsel for the Defendant is researching these matters and has engaged the Government Counsel regarding a potential resolution to protect the interests of the Defendant.
4. Counsel for the Defendant is set for a firm jury trial on March 27, 2017 in the Eighth Judicial District Court, Clark County, Department 12, in Case C-16-313395-1, State of Nevada v. Rafael Byrd, which is a burglary while in possession of

1 a firearm, attempt robbery with use of a deadly weapon, attempt robbery where
2 victim is an older person, and first degree kidnapping case. This matter is a joint
3 trial with a Co-Defendant. This trial is expected to last two (2) weeks.


4 5. Denial of this request for continuance would deny the parties herein time
5 and the opportunity to effectively and thoroughly prepare for the sentencing
6 hearing, taking into account the exercise of due diligence.

7 6. Additionally, denial of this request for continuance could result in a
8 miscarriage of justice.

9 7. For all of the above-stated reasons, the ends of justice would best be
10 served by a continuance of the sentencing date.

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13 **IT IS HEREBY ORDERED that the sentencing hearing currently scheduled for March**
14 **27, 2017 is vacated and continued to May 16, 2017, at the hour of 11:00 a.m.**

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16 DATED this 24th day of March, 2017.

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19 United States District Court Judge
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